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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,289	03/25/2004	Kevin Hartman	3246.01US02	6037

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EXAMINER

TRAN, HANH VAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/809,289

Applicant(s)

HARTMAN

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/13/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the First Office Action on the Merits from the examiner in charge of this application.

#### ***Drawings***

2. Figure 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

3. The abstract of the disclosure is objected to because it includes legal phraseology, such as, "invention". Correction is required. See MPEP § 608.01(b).

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

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disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-2, 4-7, 9-12, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,853,322 to Jones et al in view of USP 5,248,536 to Du Katz and USP 5,524,373 to Plumly.

Jones et al discloses a cashier counter comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a base including a well; wherein said base is mountable upon an existing countertop, and configured to shroudably receive a plurality of different-sized existing countertops. The differences being that Jones does not disclose the base presents an advertising surface, a transparent cover positionable above said advertising surface, the transparent cover being maintained

atop the advertising surface by a plurality of surrounding walls that are presented by the base, a clearance area being provided intermediate the advertising surface and the transparent cover.

Du Katz teaches that it is well known in the art to provide a cashier countertop with an advertising surface having a transparent cover positioned above the advertising surface in order to rapidly and succinctly convey to potential consumers relevant product and service information. Plumly teaches that it is well known in the art to provide an advertising surface with a transparent cover being maintained atop the advertising surface by a plurality of surrounding walls that are presented by a base, a clearance area being provided intermediate the advertising surface and the transparent cover, such as shown in Figs 1-8, wherein the structure provides an effective and simple advertisement apparatus which allows the advertising medium to be readily changed when desired. Therefore, it would have been obvious to modify the structure of Jones by providing the cashier countertop with an advertising surface having a transparent cover positioned above the advertising surface in order to rapidly and succinctly convey to potential consumers relevant product and service information, as taught by Du Katz, and by providing the advertising surface with a transparent cover being maintained atop the advertising surface by a plurality of surrounding walls that are presented by a base, a clearance area being provided intermediate the advertising surface and the transparent cover in order to provide an effective and simple advertisement apparatus which allows the advertising medium to be readily changed

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when desired, as taught by Plumly, since the references teach alternate conventional horizontal supporting structure, thereby providing structure as claimed.

8. Claims 3, 8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones, et al, as modified, as applied to claims 1, 6, and 11 above, and further in view of USP 3,688,707 to White.

Jones et al, as modified, discloses all the elements as discussed above except for the advertisement surface being dividable into a plurality of sections.

White teaches that it is well known in the art to provide a horizontal supporting surface with art objects; wherein the surface is dividable into a plurality of sections in order to hold various objects for aesthetic purpose. Therefore, it would have been obvious to modify the structure of Jones et al, as modified, by having the advertisement surface being dividable into a plurality of sections in order to hold various advertisements for aesthetic purpose, as taught by White, since both teach alternate conventional horizontal support surface, thereby providing structure as claimed.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kerber, Wurst, Humble et al, Miller, Jr., Gross, Erfinder, and Schell all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT  
May 30, 2006



**Hanh V. Tran**  
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